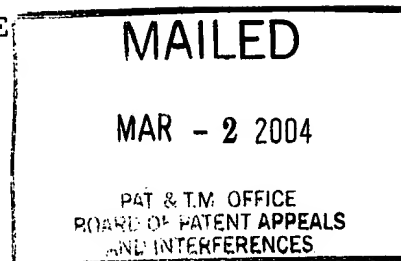


The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 24

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte YOUICHI ISHIMURA and YOSHIFUMI TOMOMATSU

Appeal No. 2004-0501
Application No. 09/881,675

ORDER REMANDING TO EXAMINER

Appellants filed a reply brief and request for oral hearing on January 7, 2004 (Paper Nos. 22 and 23) in response to the examiner's answer entered October 22, 2003 (Paper No. 18). However, there is no indication on the record whether or not the examiner has considered the reply brief. Section § 1208.03 of the Manual of Patent Examining Procedure (8th ed., Aug. 2001) states:

[A]ppellant may file a reply brief as a matter of right within 2 months from the mailing date of the examiner's answer. . . . The primary must then either: (A) acknowledge receipt and entry of the reply brief by

Appeal No. 2004-0501
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using form paragraph 12.47 on form PTOL-90; or (B)
reopen prosecution to respond to the reply brief. See
MPEP § 1208.02.


Accordingly, it is

ORDERED that this application be remanded to the
examiner for: 1) proper consideration and written response to the
reply brief, and 2) for such further action as may be
appropriate.

It is important that the Board of Patent Appeals and
Interferences be informed promptly of any action affecting the
status of this appeal (i.e., abandonment, issue, reopening
prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: _____


Kimberly Jordan
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KJ:tdl

Appeal No. 2004-0501
Application No. 09/881,675

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